

BETANCOURT, VAN HEMMEN, GRECO & KENYON LLC  
Attorneys for Plaintiff  
46 Trinity Place  
New York, New York 10006  
212-297-0050  
Todd P. Kenyon (TK 7654)  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WESTERN BULK CARRIERS KS	:	
	:	08 Civ. 00984
Plaintiff,	:	
	:	<b><u>VERIFIED COMPLAINT</u></b>
-against-	:	
	:	
A.P. OXIDOS INDUSTRIA	:	
E COMERCIO LTDA	:	
	:	
Defendant.	:	
-----X	:	

Plaintiff, Western Bulk Carriers KS (“Western Bulk”), by and through its attorneys, Betancourt, Van Hemmen, Greco & Kenyon LLC, for its Verified Complaint against Defendant, alleges upon information and belief as follows:

1. Plaintiff Western Bulk is a foreign corporation with an place of business at Oslo, Norway.
2. Upon information and belief, Defendant A.P. Oxidos Industria e Comercio LTDA (“A.P. Oxidos”) is a foreign corporation with a place of business at Belo Horizonte, Brazil.
3. This Verified Complaint alleges an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and this Court has admiralty jurisdiction over such claim pursuant to 28 U.S.C. § 1333.
4. At all relevant times, Western Bulk was the disponent owner of the ocean-going

vessel MV FONARUN NAREE (or “Vessel”).

5. Pursuant to a Voyage Charter Party dated December 14, 2007, Western Bulk chartered the FONARUN NAREE to A.P. Oxidos as charterer for a voyage from Santos, Brazil to Nantong, China to carry a cargo of iron ore.

6. A.P. Oxidos was obligated under the Charter to pay freight at the rate of \$113.25 per metric ton, with the amount to be carried to be 20,000 metric tons, 10% more or less at Owner’s option, and to pay demurrage at the rate of \$28,000 per day.

7. Pursuant to the Charter, the Vessel duly loaded 20,798.397 metric tons at Santos, Brazil in late December and early January, 2008.

8. Pursuant to the terms of the Charter, Western Bulk on January 16, 2008, issued its invoice to A.P. Oxidos for payment of freight, deadfreight and demurrage in the amount of \$2,751,193.97, to be paid within 5 banking days .

9. Western Bulk has fulfilled its obligations for payment of the freight and deadfreight invoice, and, despite due demand, A.P. Oxidos has failed to pay, thus breaching its obligations under the Charter.

10. As a result of this breach, Western Bulk as suffered principal damages in the amount of \$2,751,193.97, exclusive of interest, attorneys fees and arbitration costs.

11. The Charter provides for application of English Law and for arbitration in London, which arbitration Western Bulk does not waive and intends to pursue.

12. The prevailing party under English Law and in London arbitration is generally awarded interest, attorneys fees and arbitration costs.

13. Western Bulk expects to claim the following estimated amount in London arbitration:

(a.) Principal amount: \$2,751,193.97; (b.) three years interest at 6% per annum: \$525,520; (c.) Attorneys' fees: \$125,000; (d.) Arbitration costs: \$35,000, for a total claim of \$3,436,713.97.

14. A.P. Oxidos cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, but on information and belief, A.P. Oxidos has, or will have during the pendency of this action, property within the District, including funds or credits being held by, or being transferred through, one or more garnishee banks or financial institutions within the District.

WHEREFORE, Plaintiff prays:

A. That process in due form of law in accordance with Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims and in the form of Process of Maritime Attachment be issued and levied against all property of A.P. Oxidos within the District, including all funds being held by, or being transferred through, one or more garnishee banks or financial institutions within the District, up to the amount of \$3,436,713.97;

B. That process in due form of law issue against A.P. Oxidos, citing it to appear and answer under oath the matters alleged in this Verified Complaint;

C.. That judgment in favor of Western Bulk be entered against A.P. Oxidos in the amount of \$3,436,713.97; and

D. That this Court grant Western Bulk such other, further and different relief as is deemed just and proper.

Dated: February 1, 2008

BETANCOURT, VAN HEMMEN, GRECO & KENYON LLC  
Attorneys for Plaintiff

By \_\_\_\_\_  
Todd P. Kenyon (TK 7654)  
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46 Trinity Place  
New York, New York 10006  
212-297-0050

**ATTORNEY VERIFICATION**

STATE OF NEW JERSEY                    )  
  :ss:  
COUNTY OF MONMOUTH                )

TODD P. KENYON, being duly sworn, deposes and says:

I am a member of the firm Betancourt, Van Hemmen, Greco & Kenyon LLC, attorneys for Plaintiff herein. I have read the foregoing Verified Complaint, and know the contents thereof, and the same are true and correct to the best of my knowledge, information and belief. I have reviewed documentation concerning this matter provided by Plaintiff and have corresponded with them on the information provided. I am authorized by Plaintiff to make this verification. I am making this verification since there is no officer or director of Plaintiff within the District to execute this verification.

\_\_\_\_\_  
Todd P. Kenyon

Sworn and subscribed before me on  
February 1, 2008

\_\_\_\_\_  
Notary Public